

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division



**BENJAMIN LUCCIOLA GUARINO,**

Plaintiff,

v.

Civil Action No. **3:07CV483**

**GENE M. JOHNSON, et al.,**

Defendants.

**MEMORANDUM OPINION**

On August 28, 2007, the Court conditionally docketed Plaintiff's action. Plaintiff requested leave to proceed *in forma pauperis*. By Memorandum Order entered on November 20, 2007, the Court directed Plaintiff to pay an initial partial filing fee of **\$14.05** or state under penalty of perjury that he did not have sufficient assets to pay such a fee within eleven days of the date of entry thereof. *See* 28 U.S.C. § 1915(b)(1). Thereafter, by Memorandum Order entered on January 8, 2008, the Court granted Plaintiff an eleven-day extension of time to comply with the November 20, 2007 Memorandum Order. Thereafter, on January 14, 2008, Plaintiff complained that filing fee was "exceedingly high" and stated that he "will try to get the partial filing fee to the court as soon as the counselor can cut a check for him." Over three months have elapsed and Plaintiff has neither paid the initial partial filing fee nor averred that he can not pay such a fee. Therefore, Plaintiff is not entitled to proceed *in forma pauperis*. Plaintiff's disregard of the Court's directives warrants dismissal of the action. Accordingly, the action will be **DISMISSED WITHOUT PREJUDICE**.

An appropriate Order shall issue.

Date: 4-16-08  
Richmond, Virginia

/s/  
**James R. Spencer**  
**Chief United States District Judge**